

FILED  
CLERK

2:58 pm, Oct 28, 2020

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JANET SCHLOCK,

Plaintiff,

-against-

**ORDER**

20-CV-02370 (GRB) (SIL)

BROOKHAVEN SCIENCE ASSOCIATES LLC,

Defendant.  
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**GARY R. BROWN, United States District Judge:**

By Electronic Order dated June 5, 2020, the Court warned Janet Schlock (“plaintiff”) that a failure to serve the summons and complaint by August 26, 2020 may lead to the dismissal of her case pursuant to Federal Rule of Civil Procedure 4(m).<sup>1</sup> The Electronic Order was mailed to plaintiff at her address of record and has not been returned to the Court. To date, plaintiff has not filed proof of service, nor has she otherwise communicated with the Court about this case. Accordingly, it appears plaintiff is no longer interested in pursuing this case and the complaint is thus dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 4(m) (“If a defendant is not served within 90 days after the complaint is filed, the court - on motion or on its own after notice to the plaintiff - must dismiss the action without prejudice against that defendant . . . .”) ; *see also Zapata v. City of New York*, 502 F.3d 192, 199 (2d Cir. 2007) (“Zapata made no effort to effect service within the service period . . . and has advanced no cognizable excuse for the delay.”); *Awan v. Experienced Moving Co.*, No. 18-CV-5137(EK)(VMS), 2020 WL 4261180, at \*2 (E.D.N.Y. July 24, 2020) (dismissing the complaint “without prejudice for failure to serve in the time required by Rule 4(m) of the Federal Rules of

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<sup>1</sup> Plaintiff filed the complaint on May 28, 2020. (DE 1.)

Civil Procedure.”).

Although plaintiff paid the fee to commence this action, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore, should plaintiff seek leave to appeal *in forma pauperis*, such status is denied for the purpose of any appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962). The Clerk of the Court is directed to: (1) mail a copy of this Order to plaintiff at her address of record; (2) enter judgment; and (3) close this case.

**SO ORDERED.**

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Gary R. Brown  
United States District Judge

Dated:           October 28, 2020  
                  Central Islip, New York